

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

NO. 03 CV 12307 RGS

JOSEPH CHRISTOFORO                     )  
  Plaintiff                     )  
  )  
VS.   )  
  )  
JULIO LUPO,                                )  
  Defendant                )

Motion for Summary Judgment

Now comes the plaintiff, Joseph Christoforo, and respectfully moves this Honorable Court to grant summary judgment in his favor pursuant to Fed. R. Civ. P. 56(c) as there are no genuine issues of material fact and he is entitled to judgment as a matter of law.

In support of this motion, the plaintiff assigns the following:

1. That the defendant has admitted in deposition testimony, an internal affairs interview, and Answers to Interrogatories that he struck the plaintiff during the incident giving rise to the instant cause of action (See Exhibit D, pages 32, 48; Exhibit E, pages 5, 15, 16, 17, 19, 27; and Exhibit F, Answer to Interrogatory No. 10);
2. That the defendant has further admitted that as a result of assaulting the plaintiff, Mr. Christoforo sustained physical injuries, mental anguish, emotional distress, and permanent injuries (See Exhibit B, paragraph 12; Exhibit C, paragraph 12);
3. That the defendant has also admitted that at the time of the events alleged in the plaintiff's Amended Complaint he was employed as a corrections officer at the Essex County House of Correction in Middleton by the Essex County Sheriff's Department (See Exhibit B, paragraph 2; Exhibit C, paragraph 2);

4. That the plaintiff further relies on the accompanying Memorandum of Law and supporting exhibits; and
5. That accordingly, no genuine issue of material fact regarding the defendant's liability exists, and the plaintiff is entitled to judgment as a matter of law as to that issue.

Respectfully Submitted,  
The Plaintiff,  
By His Attorney,

/s/ Edward J. McCormick, III  
Edward J. McCormick, III  
McCormick & Maitland  
Suite Six – Hayward Manor  
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Franklin, MA 02038  
(508) 520-0333  
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**CERTIFICATION OF CONFERENCE**

Pursuant to Local Rule 7.1(a)(2), I, Edward J. McCormick, III, do hereby certify that I conferred by telephone with Defendant's counsel, Jay Hodapp, on September 14, 2007, regarding this motion in a good faith attempt to resolve or narrow the issue.

/s/ Edward J. McCormick, III  
Edward J. McCormick, III

**CERTIFICATE OF SERVICE**

I, Edward J. McCormick, III, do hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on September 17, 2007.

/s/ Edward J. McCormick, III  
Edward J. McCormick, III